

COVID-19 Executive Orders Affecting Older Adults

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Issue

This report provides a brief summary of COVID-19 executive orders affecting older adults.

Summary

In response to the COVID-19 pandemic, Governor Lamont has issued several executive orders (EOs) that significantly affect the state's older adults. Among other things, the EOs address (1) long-term care programs and services, including Medicaid; (2) nursing homes and COVID-19 Recovery Facilities; (3) elderly protective services; (4) property tax relief; (5) prescription medications; and (6) telehealth services.

Not all provisions of the EOs are included in this report. Complete EOs are available on the state's COVID-19 response website: <https://portal.ct.gov/Coronavirus/Pages/Emergency-Orders-issued-by-the-Governor-and-State-Agencies>.

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COVID-19 Recovery Facilities

Designation of COVID-19 Recovery Facilities

In April, Governor Lamont issued an EO that established the state's first two COVID-19 Recovery Facilities (CRFs) at two existing nursing homes: Sharon Health Care Center in Sharon and Northbridge Healthcare Center in Bridgeport. The EO also authorized the Department of Public Health (DPH) commissioner to create additional recovery centers throughout the state as she deems necessary ([EO 7Y](#), § 6, Apr. 11, 2020; [DPH Implementation Order](#), Apr. 11, 2020).

Generally, these “step-down” facilities treat COVID-19 infected patients who no longer require hospital-level care and are located at former or existing nursing homes or in separate units or wings of existing nursing homes. According to DPH, as of May 7, the department has designated an additional eight Alternate COVID-19 Recovery Facilities (ACRFs) statewide at former free-standing nursing homes and in dedicated units or wings of existing nursing homes. These CRFs and ACRFs provide up to 858 beds statewide dedicated to treating COVID-19 patients. For more information on these facilities, see OLR Report [2020-R-0157](#).

Notice of Discharge Plans for COVID-19 Patients

An April 11 EO allows CRFs and ACRFs to discharge residents no longer infected with COVID-19 to non-institutional settings without providing residents a discharge notice or discharge plan (hereafter “COVID-19 Recovered Discharges”). The facilities must comply with DPH regulations on discharge planning requirements for COVID-19 Recovered Discharges. For these discharges, the order suspends the requirement that facilities stay involuntary discharges that are appealed (1) pending the decision of the Department of Social Services (DSS) commissioner, or her designee, and (2) for discharges the commissioner or designee deems lawful, for at least 15 days after the resident or the resident's legally liable representative receives the decision ([EO 7Y](#), § 4, Apr. 11, 2020).

Elder Abuse Investigations

Under the Protective Services for the Elderly program, DSS staff investigate complaints of abuse, neglect, exploitation, or abandonment of adults ages 60 or older living in the community and provide them with any needed protective services. If the investigation confirms the abuse, the case is referred to the state's attorney for investigation and possible prosecution.

A March 19 EO authorizes the DSS commissioner to waive the required in-person visit to an older adult concerning an investigation of reported (1) suspected elder abuse, neglect, exploitation, or abandonment (“abuse”) or (2) need for protective services. Investigators must, if possible and appropriate, use different means to conduct these visits.

The EO also authorizes the DSS commissioner to extend, by up to 90 days, the requirement that the commissioner disclose the investigation results to the person who reported the suspected elder abuse or need for protective services, within 45 days after completing the investigation ([EO 7G](#), § 7, Mar. 19, 2020).

Federal Coronavirus Relief Funds for COVID-19 Recovery Facilities and Nursing Homes

Authorization of Relief Fund Distribution

A May 13 EO requires the Office of Policy and Management (OPM) to authorize the DSS commissioner to distribute:

1. Coronavirus Relief Funds the state receives under the federal “Coronavirus Aid, Relief, and Economic Security Act” (“CARES Act,” P.L. 116-136) to nursing homes using funding distribution methods the DSS commissioner establishes in consultation with OPM and
2. COVID-specific Coronavirus Relief Fund grants of \$600 per bed per day to CRFs and ACRFs to cover necessary expenditures incurred due to the COVID-19 pandemic.

The order also requires DSS, under OPM’s direction, to complete monthly cost and expense reviews of each CRF and ACRF receiving grants, to consider expenses that were not reimbursed by other payors.

Nursing homes, CRFs, and ACRFs must use Coronavirus Relief Fund grants to cover necessary expenditures incurred due to the COVID-19 pandemic and report to DSS that the funds were used on eligible expenditures in accordance with related federal requirements and guidance ([EO 7NN](#), §§ 5 & 6, May 13, 2020).

Additional Hardship Relief for Nursing Homes

The May 13 EO allows the DSS commissioner, under OPM’s direction, to make additional Coronavirus Relief Fund distributions to nursing homes that request additional hardship relief funding. The commissioner must consult with OPM when reviewing these requests and consider various factors, such as whether the nursing home has (1) explored other COVID-19 federal funding opportunities and (2) complied with infection control measures, guidance on personal protective equipment, and required staffing configurations to reduce COVID-19 transmission. Nursing homes that receive this additional funding must demonstrate to DSS that it was used for eligible COVID-19 related expenditures in accordance with the Coronavirus Relief Fund and related federal requirements and guidance ([EO 7NN](#), § 7, May 13, 2020).

Rehearing and Appeal of Coronavirus Relief Fund Determinations

The May 13 EO allows the DSS commissioner and OPM secretary to establish additional standards or policies on Coronavirus Relief Fund distributions that they deem appropriate. Under the order, DSS and OPM determinations on Coronavirus Relief Fund distributions and allocations to nursing homes, CRFs, and ACRFs are not considered Medicaid payments and therefore are not subject to reconsideration, rehearing, or appeal under existing law ([EO 7NN](#), § 8, May 13, 2020).

Home Health Care

Additional Support for Caregiver Relatives

By law, the federal National Family Caregiver Support Program issues grants to states to provide information, referral, training, counseling, respite care, and other supportive services to (1) people caring for individuals age 60 or older, or individuals of any age with Alzheimer's disease or a related disorder and (2) grandparents and other relative-caregivers (excluding a child's parents) caring for children under age 18 or adults ages 18 to 59 with disabilities. In Connecticut, the Department of Aging and Disability Services (ADS) administers the program, in coordination with the state's five Area Agencies on Aging (AAAs).

In May, the governor issued an EO authorizing the ADS commissioner to provide additional support for caregiver relatives under the National Family Caregiver Support Program. Specifically, the EO:

1. increases the maximum amount AAAs can provide to family caregivers for respite care services (from \$3,500 to \$7,500 annually) and supplemental services (from \$750 to \$1,500 annually);
2. temporarily suspends the (a) 20% cap on program funds that AAAs may use to provide supplemental services to caregivers and (b) 10% cap on program funds for services to grandparents and older adults who are relative caregivers under existing regulations; and
3. authorizes this additional support for as long as the ADS commissioner determines it is necessary, but no longer than the duration of the declared public health and civil preparedness emergencies ([EO 7NN](#), § 3, May 13, 2020).

Medicaid Home Health Services Regulations

A May 5 EO authorizes the DSS commissioner to temporarily waive, modify, or suspend by written order any DSS regulations on medical assistance in order to increase Medicaid beneficiaries' access to home health services ([EO 7II](#), § 2, May 5, 2020).

Long-Term Care

Long-Term Care Facility Visitor Restrictions

In recent months, the governor has issued several EOs authorizing the DPH commissioner to issue orders restricting entrance into nursing homes, residential care homes, or chronic disease hospitals that the commissioner deems necessary to protect the health and welfare of facility residents and staff ([EO 7](#), § 2, Mar. 12, 2020; [EO 7A](#), Mar. 13, 2020).

The department subsequently issued several implementation orders restricting visitor access to these facilities ([DPH Implementation Order](#), Mar. 13, 2020; [DPH Implementation Order](#), Apr. 21, 2020; [DPH Implementation Order](#), May 9, 2020; [DPH Implementation Order](#), Jun. 12, 2020). Generally, these orders ban all visitors to these facilities with limited exceptions (e.g., first responders and certain family members of terminally ill residents) as well as specify procedures for screening potential visitors and conditions under which facility residents may leave the facility grounds. The department's June 12 order allows a parent, step-parent, or legal guardian of a resident who is a minor to have a weekly in-person visit with his or her child.

For more information on nursing home visitor restrictions during the COVID-19 pandemic, see OLR Report [2020-R-0140](#).

Long-Term Care Provider Background Check Program

By law, DPH administers a background check program for direct care employees and volunteers of long-term care facilities. A March 23 EO suspends the requirement under existing law that long-term care facilities submit to DPH state and national criminal records searches of volunteers, direct care employees, and contractors before they begin volunteering or working at the facility.

The EO allows facilities, during the suspension period, to offer conditional, supervised employment or volunteer work for up to 60 days (DPH may extend this period under certain circumstances) to individuals who sign a statement that they have not committed any disqualifying offense that would prohibit them from volunteering or working at the facility (e.g., conviction of specified assault and abuse crimes against the elderly)([EO 7K](#), § 5, Mar. 23, 2020).

Managed Residential Community and Nursing Home Census Reports

In April, the governor issued an EO that requires managed residential communities (MRCs) and nursing homes operating in the state to participate in and provide daily census reports in the way requested by the [Connecticut Hospital and Long-Term Care Mutual Aid Plan](#).

Under the order, MRCs that fail to comply with the reporting requirement are subject to a civil penalty of up to \$5,000 per violation. For nursing homes, it is classified as a class A violation, which is punishable by a civil penalty of up to \$20,000 ([CGS § 19a-527](#)).

Mandatory COVID-19 Testing for Certain Long-Term Care Facility Staff

In June, the governor issued two EOs that require mandatory weekly COVID-19 testing for certain staff of private and municipal nursing homes, MRCs, and assisted living services agencies (ALSAs).

Under the orders, facilities must test only those staff who have not previously tested positive for the illness and start such testing by the week of (1) June 14 for nursing homes and (2) June 28 for ALSAs and MRCs. The weekly testing must continue (1) through the duration of the declared public health and civil preparedness emergencies or (2) until there are no new positive test results for residents or staff for at least 14 days since the most recent positive result, whichever is earlier.

Facilities must perform the weekly testing in accordance with the most recent DPH guidance and restart the testing if a new case of COVID-19 is identified among residents or staff. The orders define “staff” as all personnel working in these facilities, such as administrators, per diem staff, contractors with a regular presence at the facility, and volunteers ([EO 7AAA](#), § 4, Jun. 17, 2020; [EO 7UU](#), § 1, Jun. 1, 2020).

Medicaid

Delivery Receipts for Medical Equipment, Devices, and Supplies

An April 23 EO allows the DSS commissioner to temporarily waive, suspend, or modify requirements that Medicaid providers obtain a signed delivery receipt from the Medicaid recipient as a condition of payment for medical equipment, devices, and supplies ([EO 7EE](#), § 6, Apr. 23, 2020).

Excluding Federal Stimulus Payments in Eligibility Determinations

An April 21 EO excludes stimulus payments individuals receive under the federal CARES Act from any calculation of available income or resources made to determine eligibility or benefits for a fully or partially state-funded need-based program (e.g., Medicaid eligibility determinations)([EO 7CC](#), § 3, Apr. 21, 2020).

Medication Refill Limits

A March 21 EO authorizes the DSS commissioner to reimburse HUSKY providers (i.e., Medicaid and Children’s Health Insurance Program providers) for supplies of maintenance and non-maintenance medications, excluding controlled substances, for a period of up to 90 days, regardless of the supply quantity ([EO 7I](#), § 4, Mar. 21, 2020).

Prior Authorization Requirements

The April 23 EO allows the DSS commissioner to waive, suspend, or modify any prior authorization or other utilization review requirements mandated by (1) state law for hospital admissions and

lengths of stay or (2) regulations, policies, rules, or other directives for medical assistance programs (e.g., Medicaid)([EO 7EE](#), § 4, Apr. 23, 2020).

Nursing Homes

Emergency Transfer of Nursing Home Residents With COVID-19 Infection

An April 11 EO amends the definition of “emergency” in statutory provisions governing the transfer or discharge of nursing home residents to include COVID-19 transfers (i.e., the transfer of residents with COVID-19 infections to COVID Recovery Facilities or Alternate COVID Recovery Facilities).

The order allows nursing homes to make COVID-19 transfers without providing advanced written notice of the transfer to the resident or the resident’s legally liable representative, as is required under existing law ([CGS § 19a-535c](#)). Nursing homes are instead required to provide the notification as soon as practicable after the COVID-19 transfer ([EO 7Y](#), § 3, Apr. 11, 2020).

Involuntary Discharge of Nursing Home and Residential Care Home Residents

Existing law allows nursing homes and residential care homes to involuntarily transfer residents under certain conditions, such as when the resident no longer needs the facility’s services or is endangering the health and safety of other residents ([CGS § 19a-535](#)). In June, the governor issued an order that prohibits such involuntary transfers to homeless shelters for the duration of the declared public health and civil preparedness emergencies.

The order also immediately stays any related hearing or decision, including level of care hearings or decisions, except for (1) emergency situations where failure to immediately discharge a resident would endanger the health, safety, or welfare of other facility residents or staff (e.g., a resident’s refusal to comply with infection control or social distancing measures) or (2) COVID-19 discharges (see above section on COVID-19 Recovery Facilities)([EO 7XX](#), §§ 3 & 4, Jun. 5, 2020).

Medicaid Nursing Home Bed Moratorium

The governor issued an EO that suspends, as of April 13, 2020, part of the state’s nursing home bed moratorium, which generally prohibits DSS from approving nursing home bed requests unless certain conditions are met, including obtaining a certificate of need to add new beds.

This order applies only to (1) entities DPH designates as Alternate COVID Recovery Facilities (see above section on COVID-19 Recovery Facilities) and (2) additional beds required at existing nursing homes to receive COVID-19 transfers (i.e., transfers of COVID-19 negative residents from facilities designated as COVID Recovery Facilities).

Under the order, DSS must temporarily certify these new beds in response to COVID-19 and decertify beds at the end of the declared public health and civil preparedness emergencies ([EO 7AA](#), § 1, Apr. 15, 2020).

Reserving Nursing Home Beds for COVID-19 Patients

In April, the governor issued an EO that suspends the requirement that nursing homes reserve the bed of a hospitalized private-pay or Medicaid resident if the hospital notifies the home that post-hospitalization, the resident will be transferred to a COVID Recovery Facility or Alternate COVID Recovery Facility due to a COVID-19 infection.

Under the order, nursing homes must allow the resident's return only if (1) a bed is available and (2) the resident has tested negative for COVID-19 on two separate laboratory tests at least 24 hours apart ([EO 7Y](#), § 1, Apr. 11, 2020).

Temporary Nurse Aides

A May 27 EO creates a new category of professionals, "temporary nurse aides," who (1) provide nursing or nursing-related services to nursing home residents under the direction of a licensed nurse and (2) completed specified training (it excludes health professionals otherwise licensed or certified and volunteers). Temporary nurse aides are prohibited from engaging in any activity that requires a state nursing license.

Under the order, the DPH commissioner may (1) grant registration of a temporary nurse aide who complies with the department's related policies and (2) adopt, amend, suspend, and revoke related scope of practice, training, competency, and temporary hiring policies. DPH regulations regarding temporary nurse aides are not subject to Uniform Administrative Procedure Act procedures for reviewing and approving regulations ([EO 7SS](#), May 27, 2020).

Transfer of Medicaid Residents

In March, the governor issued an EO that extends, from 60 days to up to one year, the timeframe for a Medicaid applicant to transfer from a nursing home (1) that is closing or under receivership or (2) where the applicant was placed following the closure of his or her prior residence (by law, nursing homes may bypass their wait lists to admit these applicants)([EO 7L](#), § 5, Mar. 24, 2020).

A subsequent EO applies this extension to applicants who were (1) subject to a COVID-19 transfer (see above) or (2) transferred to a COVID Recovery Facility and tested negative for COVID-19 infection (see above section on COVID-19 Recovery Facilities)([EO 7Y](#), § 6, Apr. 11, 2020).

Transfer of Residents Under Conservatorship

An April 11 EO eliminates requirements for probate court hearings and orders for certain long-term care facilities (e.g., nursing homes) transfers or discharges for someone under conservatorship. The order applies to (1) transfers of hospital patients to COVID Recovery Facilities or Alternate COVID Recovery Facilities (see above section on COVID-19 Recovery Facilities); (2) COVID-19 transfers (i.e., transfers of COVID-19 negative residents from designated COVID Recovery Facilities to other facilities); and (3) COVID-19 recovered discharges ([EO 7Y](#), § 5, Apr. 11, 2020).

Pharmacy and Prescription Medications

Medical Marijuana Program

A March 24 EO makes several changes to the state's Medical Marijuana Program, including (1) allowing medical marijuana patients to be certified and receive follow-up care via telehealth; (2) extending certain expiration dates for patient and caregiver registrations by 90 days (3) waiving the fee for lost or misplaced registration certificates; and (4) allowing dispensary and laboratory staff to work at multiple facilities and modifying dispensary staffing requirements to limit the impact of staffing shortages ([EO 7L](#), § 4, Mar. 24, 2020).

Medicare Part D Copayments Suspended for Dually Eligible Beneficiaries

A March 21 EO (1) eliminates Medicare Part D copayments of up to \$17 per month (total for all prescriptions) for dually eligible Medicaid beneficiary medications covered by Medicare Part D and (2) authorizes DSS to cover the copayment amounts in full, after any other insurer has paid ([EO 7I](#), § 2, Mar. 21, 2020).

Methadone Access for Homebound Patients

A March 22 EO allows methadone maintenance clinics to deliver methadone to homebound drug-dependent patients who a medical professional determines are unable to travel to the treatment facility ([EO 7J](#), § 3, Mar. 22, 2020; [DCP Implementation Order](#), Mar. 22, 2020).

Pharmacist Authority to Refill Prescriptions

A March 21 EO allows pharmacists to refill non-controlled substance prescriptions for up to 30 days if, among other things, they are unable to contact the prescribing practitioner ([EO 7I](#), § 9, Mar. 21, 2020).

Property Tax Relief

Filing Requirements for Certain Property Tax Relief Programs

The state's Circuit Breaker program entitles eligible older adults and individuals with a permanent and total disability to a property tax reduction. Additionally, towns may opt to provide further tax relief, including freezing tax payments at specified levels, to older adults and totally disabled homeowners who are at least age 65 and have paid taxes in the town for at least a year.

The governor issued two EOs that suspend the biennial reapplication requirements under these programs for individuals who were granted tax relief benefits for the 2017 tax assessment year. This allows these recipients to continue receiving their benefits through the next biennial cycle without recertifying their eligibility ([EO 7S](#), § 8, Apr. 1, 2020; [EO 7JJ](#), § 1, May 6, 2020)

Additionally, a March 21 EO waives in-person appearance requirements for Circuit Breaker Program applications, thus allowing public agencies to obtain required information electronically ([EO 7I](#), § 16, Mar. 21, 2020)

Telehealth

In recent months, the governor has issued several EOs that modify the practice of telehealth in the state to ensure that residents have continued access to health care services. Among other things, the EOs (1) expand the types of health care providers that are authorized to provide telehealth services; (2) expand service delivery methods for certain providers to include audio-only technologies and third-party video communication applications (e.g., Apple FaceTime or Facebook Messenger); (3) temporarily suspend provider licensure and certifications requirements; and (4) specify requirements for provider payments. For more information on these orders, see OLR Report [2020-R-0138](#).

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